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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,621	12/24/2003	Aaron Golle	1748008US1	1480
21186	7590	11/08/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH 1600 TCF TOWER 121 SOUTH EIGHT STREET MINNEAPOLIS, MN 55402			CRANSON JR, JAMES W	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 11/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,621

Applicant(s)

GOLLE ET AL.

Examiner

James W. Cranson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/19/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments, see amendment, filed 09/19/2005, with respect to Office Action mailed 04/21/2005 have been fully considered and are persuasive. The rejection in the Office Action of claims 1-24 has been withdrawn. A new action on the merits follows.

Claim Objections

The objection to the claims in the Office Action mailed 04/21/2005 is withdrawn

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 6 is rejected under 35 U.S.C. 102(b) as being fully anticipated by USPN 4,087,124 to Wiley.

Wiley discloses safety EL indicia on a surface on top of a vehicle.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 1, 3, 4, 7, 8, 20, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over W/O 98/57097 to Stevenson.

An improved safety lighting EL device for attachment anywhere on a vehicle (truck) that may include indicia is disclosed by Stevenson. Stevenson does not mention a load or the size of a load. It would have been obvious to one of ordinary skill in the art at the time of invention to have the truck of Stevenson carry an oversized load because any truck is perfectly capable of carrying an oversized load. Whereas a car would not be expected to carry an oversized load.

Regarding claims 1 and 20;

Stevenson discloses improving driver safety in a truck (claims 13, 15, 18) with safety indicia that signal a safety signal to other driver that is (claims 7, 8, 9) illuminated by EL (claim 1). It is well known that the vehicle would be driven on a highway.

Regarding claims 3 and 4 according to claim 1;

Stevenson discloses that the EL lighting surfaces are on cab (figure 5) and rear (figure 6) of vehicle.

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Regarding claims 7, according to claim 1, and claim 8, according to claim 7;

It is well known that the vehicle would be driven on a highway adjacent to another vehicle and that visibility would be poor some of the time while driving.

Regarding claim 22, according to claim 20, and claim 23, according to claim 20;

Stevenson discloses that EL lighting surfaces are on front (figure 5) and rear (figure 6) of vehicle.

Regarding claims 2, 11, 17, and claim 24, EL device attached to mud guard;

Claims 2, according to claim 1, independent claim 11, claim 17, according to claim 11, and claim 24, according to claim 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over W/O 98/57097 to Stevenson in view of USPN 5434013 to Fernandez.

W/O 98/57097 to Stevenson discloses the claimed invention as cited above, but does not specifically teach that the safety device attached to at least one mudguard. Fernandez teaches in an EL lighting device for a vehicle with safety enhancing embodiments placing the EL light on a mudguard (figure 5, splash guard 82).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the EL vehicle lighting of Stevenson onto a mudguard/splash guard as taught by Fernandez so as to ensure appropriate warning to driver. Further, it has been held that rearranging parts of an invention involves only routine skill in the art and does not make the claimed invention patentable over that prior art, *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Regarding claim 11;

Stevenson discloses a truck (claims 13,15,18) with safety indicia (claims 7-9) and as modified above by Fernandez has the EL lighting on mud flaps.

Regarding claims 5, according to claim 1, claim 15, according to claim 11, wherein the EL lighting is on a portion of a rear view mirror;

Stevenson discloses the claimed invention as cited above, but does not specifically teach that the safety device attached to at least one rear view mirror. It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the EL vehicle lighting of Stevenson onto a rear view mirror so as to ensure appropriate warning to driver. Further, it has been held that rearranging parts of an invention involves only routine skill in the art and does not make the claimed invention patentable over that prior art, *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Regarding claim 14, according to claim 11, Stevenson as modified for claim 11 by Fernandez above discloses the claimed invention as cited above, but does not specifically teach that the safety device is attached to one or more side panels. It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the EL vehicle lighting of Stevenson onto one or more side panels so as to ensure appropriate warning to driver. Further, it has been held that rearranging parts of an invention involves only routine skill in the art and does not make the claimed invention patentable over that prior art, *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Regarding claim 15, according to claim 11, Stevenson as modified for claim 11 by Fernandez above discloses the claimed invention as cited above, but does not specifically teach that the safety device attached to at least one rear view mirror. It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the EL vehicle lighting of Stevenson onto a rear view mirror so as to ensure appropriate warning to driver. Further, it has been held that rearranging parts of an invention involves only routine skill in the art and does not make the claimed invention patentable over that prior art, In re Japikse, 86 USPQ 70 (CCPA 1950).

Regarding claim 16, according to claim 11, wherein EL lighting surfaces are on the cab; Stevenson as modified for claim 11 by Fernandez above discloses the claimed invention as cited above and shows this limitation in figure 5.

Regarding claims 19, according to claim 11 and claim 25, according to claim 1, wherein EL lighting indicia convey a visual safety message including a text message (claim 40, Stevenson, data supply to illuminate lamps with vehicular information).

Regarding claims 9, according to claim 1, claim 10, according to claim 7, and claim 12 according to claim 11 wherein the EL blinks.

Claims 9, according to claim 1, and claim 10, according to claim 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over W/O 98/57097 to Stevenson in view of US 202/0181226 to Saminski et al.

Stevenson discloses the claimed invention except for having the EL lights blink. Saminski teaches the use of blinking EL lighting. It would have been obvious to one of ordinary

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skill in the art at the time of the invention to have incorporated the EL blinking lighting of Saminski into the circuit of Stevenson so as to ensure appropriate warning to drivers by the contrast of light blinking on/off. Further it is well known in the illumination art to have light sources blink.

Claim 12 is rejected under 35 U.S.C. 103(a) 35 U.S.C. 103(a) as being unpatentable over W/O 98/57097 to Stevenson in view of USPN 5434013 to Fernandez as applied to claim 11 above, and further in view of US 202/0181226 to Saminski.

Regarding claim 12, according to claim 11, Stevenson as modified for claim 11 by Fernandez above discloses the claimed invention as cited above, but does not specifically teach that EL lighting blinks. It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the EL blinking lighting of Saminski into the circuit of modified Stevenson so as to ensure appropriate warning to drivers by the contrast of light blinking on/off. Further it is well known in the illumination art have light sources blink.

Claims 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over W/O 98/57097 to Stevenson in view of USPN 5434013 to Fernandez as applied to claim 11 above, and further in view of USPN 5,775,016 to Chien

Regarding claims 13, according to claim 11, and 21, according to claim 20. Stevenson as modified for claim 11 by Fernandez above discloses the claimed invention as cited above, but does not specifically teach that EL surfaces are two or more colors. Chien teaches the use EL lighting of various colors (column 2, lines 40-49) to be used for a variety of different guiding purposes and increased attractiveness while avoiding conflict or confusion with other

warning signs (column 2, lines 62-67). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the color EL element of Chien in modified Stevenson in order to provide a variety of different guiding purpose and increased attractiveness as corroborated by Chien.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over rejected under 35 U.S.C. 103(a) as being unpatentable over W/O 98/57097 to Stevenson in view of USPN 5434013 to Fernandez as applied to claim 11 above, and further in view of USPN 6,604,834 to Kalana.

Regarding claim 18, according to claim 11; Stevenson as modified for claim 11 by Fernandez above discloses the claimed invention as cited above, but does not specifically teach that EL surfaces are on the upper body of bus RV or SUV. Kalana teaches the use EL lighting on various vehicle body types (column 4, lines 18-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the use of various vehicle body on which place the EL lighting as taught by Kalana in modified Stevenson. The reason is that it has been held that changing the form or shape of the prior art does not make the claimed invention patentable over that prior art (*In re Dailey*, 149 USPQ 47.).

Regarding claim 26, according to claim 25, wherein safety message includes a slow moving vehicle triangle symbol.

Stevenson discloses the claimed invention as cited above except for a slow moving vehicle triangle symbol. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a slow moving vehicle triangle symbol since it has been held to be within the general skill of a worker that mere change of form or shape of an invention

involves only routine skill in the art (Span-Deck Inc. c. Fab-Con, Inc. CA 8, 1982 , 215 USPQ 835). In this case, it is commonly known that making a sign into different shape may add to the effectiveness in warning, as well as add an aesthetic appeal.

Conclusion

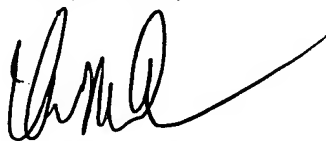
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is USPN 5,005,306 to Kinstler.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Cranson whose telephone number is 571-272-2368. The examiner can normally be reached on Mon-Fri 8:30A.M.- 5:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandy O`Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).





**THOMAS M. SEMBER
PRIMARY EXAMINER**